

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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UNITED STATES OF AMERICA,

*Plaintiff,*

v.

Case No. 18-CR-62 (PP-DEJ)

MARK F. SPINDLER

*Defendant.*

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**FINAL PRETRIAL REPORT**

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Pursuant to the Court's Criminal Pretrial Order (Doc. 117), the parties met, conferred, and prepared this final pretrial report:

- 1. A brief summary of the charges against the defendant, which the court will read to the *venire* during jury selection to inform them of the nature of the case and the identities of the parties.**

The Superseding Indictment charges Mark Spindler, a certified public accountant, with two crimes.

First, Mr. Spindler is charged with conspiracy to commit wire and mail fraud arising from his alleged participation in a scheme to defraud the United States and other entities with respect to contracts and purchase orders set aside for small businesses owned and controlled by disadvantaged individuals or service-disabled veterans. Mr. Spindler had no ownership in these businesses, but he provided accounting and tax services that allegedly helped facilitate the scheme to defraud the United States and others. He also allegedly helped conceal the scheme from government investigators at the Federal Bureau of Investigation and the Department of Veterans, Office of Inspector General.

Second, Mr. Spindler is charged with misprision of a felony because he allegedly knew that Brian Ganos committed the crime of conspiracy to commit money laundering, yet Mr. Spindler failed to notify the government of that crime. Spindler instead allegedly took affirmative steps to conceal the crime by preparing a financial statement containing false representations.

- 2. The anticipated length of the trial:**

The parties anticipate that the trial is likely to take six days and will not take more than eight days.

**3. Any stipulations the parties have reached:**

The United States proposed eleven different stipulations that would have obviated the need to call several witnesses for the purpose of authenticating evidence. The defense indicated that it is unwilling to enter into any stipulations.

**4. The name, occupation, and city of residence of each potential witness:**

a. Anticipated Witnesses for the United States:

- i. Telemachos Agoudemos  
Construction  
Big Bend, WI
- ii. Thomas Chambers  
Owner, Shorewest Surety Services, Inc.  
Union Grove, WI
- iii. Debbie Crawford  
Data Systems Manager, U.S. Dep't of Veterans Affairs, Office of Inspector General
- iv. Ruby Dent  
Business Development Analyst, Milwaukee County  
Milwaukee, WI
- v. Marci Eaton  
Procurement Analyst, General Services Administration  
Washington, DC
- vi. Scott Farina  
Construction  
Colgate, WI
- vii. Colin Feeney  
Investigative Analyst  
Defense Contract Audit Agency  
Lee's Summit, MO
- viii. Bryan Giesenschlag  
Retired  
Menomonee Falls, WI

- ix. John Halaska  
Construction  
Johnson Creek, WI
- x. James Hubbell  
Construction  
Sussex, WI
- xi. Suzanne Humeniak  
Special Agent, U.S. Department of Agriculture, Office of Inspector General  
Lincoln, NE
- xii. Diane Kingery  
Accountant  
Menomonee Falls, WI
- xiii. Daniel Klappa  
JDJ Builders  
Mukwonago, WI
- xiv. John Klein  
Associate General Counsel for Procurement Law, U.S. Small Business  
Administration  
Washington, DC
- xv. Derek Long  
Accountant  
Port Washington, WI
- xvi. Jorge Lopez  
Construction  
Worthington, MN
- xvii. Lori Michaud  
Accountant  
Menomonee Falls, WI
- xviii. Odessa Millan  
Construction  
West Allis, WI
- xix. Nicholas Rivecca Sr.  
Retired  
Brookfield, WI
- xx. James Seebruck

Construction  
Waukesha, WI

- xxi. April Smith  
Special Agent, General Services Administration  
Office of Inspector General
- xxii. Brian Sullivan  
Special Agent, U.S. Small Business Administration, Office of Inspector  
General  
Chicago, IL
- xxiii. Jennifer Walkowski  
Special Agent, Federal Bureau of Investigation  
Milwaukee, WI
- xxiv. Clay Wible  
Special Agent, Federal Bureau of Investigation  
Milwaukee, WI
- xxv. Ben Ward  
Chief of Risk Compliance for U.S. Department of Veterans Affairs,  
Center for Verification and Evaluation  
Dallas, TX
- xxvi. Forensic Examiner to be determined  
Federal Bureau of Investigation  
Milwaukee, WI

The United States reserve the right to amend this list and to call additional witnesses for rebuttal, if necessary.

b. Anticipated Witnesses for the Defense:

- i. Robert Komissar  
Accountant  
Menomonee Falls, WI
- ii. Brian Ganos  
Construction  
Muskego, WI
- iii. Mark Spindler  
Accountant  
Menomonee Falls, WI
- iv. Karen Bindl

Forensic Accountant  
Madison, WI

v. Defendant Spindler reserves the right to call witnesses off the Government's list as well.

Defendant Mark Spindler reserves the right to amend this list and call additional witnesses.

**5. A short narrative statement detailing the background and qualifications of any expert witness whom either party expects to testify.**

i. Colin Feeney is an Investigative Auditor for the Defense Contract Audit Agency ("DCAA"). He has worked for DCAA for approximately nine-and-a-half years. He has analyzed government contracts and associated payments, internal company financial records, and bank records in hundreds of cases. Mr. Feeney has a BS in Accounting, BS in Finance, and Masters in Accounting from the University of Kansas. At DCAA, he also has received extensive training in government contracting and accounting.

Mr. Feeney will testify concerning the amount of revenue C3T and Nuvo received from government contracts awarded under set aside programs. He will also testify regarding the general processes for government contracting, including that some contracts are set aside to be awarded to firms that qualify for various small business contracting programs and that contracting officers rely upon firm's representations regarding their eligibility for set-aside contracts and do not independently assess whether firms meet program requirements.

ii. Defendant, Mark Spindler does not have any expert witnesses at this time. However, Spindler reserves the right to call a rebuttal expert witness if he deems one necessary after reviewing the Government expert's credentials and reports.

**6. A complete list of all exhibits the parties expect to offer or reference during trial.**

*See attached Exhibit List.*

**7. Proposed nonstandard *voir dire* questions.**

*See attached List of Nonstandard voir dire questions*

**8. A list of proposed Seventh Circuit pattern jury instruction numbers (not the text of the instructions themselves) and the text of any proposed non-pattern instructions.**

*See attached list of jury instructions.*

**9. A proposed verdict form.**

*See attached proposed verdict form.*

**10. A statement regarding whether the parties want the court to provide a court reporter.**

The parties want the court to provide a court reporter.

**11. A statement as to how many alternate jurors the parties wish to select.**

The parties wish to select 2 alternate jurors.

Respectfully submitted this 10th day of June, 2019.

s/ Zachary J. Corey  
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